

IN THE INCOME TAX APPELLATE TRIBUNAL
AMRITSAR BENCH, AMRITSAR

BEFORE SH. SANJAY ARORA, ACCOUNTANT MEMBER AND
SH. N.K.CHOUDHRY, JUDICIAL MEMBER

ITA No.649(Asr)/2017
Assessment Year:2008-09

Sh. Gurvinder Singh Gill,
VPO Chananke, Tehsil Baba
Bakala, Amritsar-143001

Vs. Income Tax Officer
Ward-1, Tarn Taran

PAN:ANJPG 6606J
(Appellant)

(Respondent)

Appellant by: Sh. P.N. Arora (Ld. Adv.)
Respondent by: Smt. Gautam Deb (Ld. DR)

Date of hearing: 09.08.2018
Date of pronouncement: 16 .08.2018

ORDER

PER N.K.CHOUDHRY, JM:

The instant appeal has been preferred by the Assessee/Appellant, on feeling aggrieved against the order dated 20.07.2017, passed by the Ld. CIT(A)-1, Amritsar, u/s. 250(6) of the I.T. Act, 1961 (hereinafter called as 'the Act'), whereby the Ld. CIT(A) has confirmed the penalty of Rs.10,000/- imposed by the Assessing Officer.

2. The following grounds of appeal raised by the assessee.

"1. That the order of the Assessing Officer thereby levying penalty of Rs.10,000/- u/s 271(1)(b) as well as the order of learned CIT(A) thereby confirming the same are both against the facts of the case and are untenable in law.

2. That the worthy CIT(A) did not appreciate the facts of the case and merely relied on the order of the A.O. and without any rhyme & reason, the worthy CIT(A) has grossly erred in confirming the penalty. As such, the order of the Ld. CIT(A) is liable to be cancelled.

3. That the Ld. CIT(A) did not appreciate that this case does not fall within the mischief of section 271(1)(b) and as such the penalty order is bad in law and the same is liable to be cancelled.

4. *That the Ld. CIT(A) did not appreciate that there was no income worth the name and the whole addition was deleted by he AO. As such there was no default and as such the penalty levied u/s 271(1)(b) is liable to be cancelled.*

5. *That there was no default as alleged u/s 271(1)(b) and as such the penalty order is bad in law and the same is liable to be cancelled. Similarly, the worthy CIT(A) has grossly erred in confirming the same. Alternatively the penalty levied is very high & excessive.”*

3. The Co-ordinate Bench at Amritsar, in ITA No.608(Asr)/2016 in the case of *Sukhdev Singh vs. Income Tax Officer*, vide its order dated 31.07.2017 dealt with the similar and identical situation and deleted the penalty imposed by the Assessing Officer and affirmed by the Id. CIT(A). The concluding part of the order is reproduced herein below.

“6. We have heard the rival parties and have gone through the material placed on record. We find that first notice u/s 143(2) was issued on 17.08.2010. This notice remained uncomplied with. Then again, two notices were issues and which also remained uncomplied with, however, on 27.09.2010, the assessee appeared and sought adjournment and the case was fixed for 04.10.2010. Then again assessee could not appear. The Assessing Officer completed the assessment u/s 144 on 15.12.2010. Simultaneously started penalty proceedings u/s 271(l)(b). In the meantime assessee filed appeal before Ld. CIT(A) and got substantial relief and the revenue’s appeal against Ld. CIT(A)’s order was also dismissed. After the receipt of Tribunal order, the penalty case of the assessee was again started and was fixed for hearing on 23.07.2015, and penalty was imposed on 18.08.2015. In the renewed penalty proceedings also the assessee did not get sufficient opportunity to defend the penalty. The period between issue of first notice on 17.08.2010 and completion of assessment on 15.12.2010 is also not a reasonable period and assessee cannot be fastened with the liability for not appearing specifically, in view of the fact, that assessee is an uneducated person as is apparent from his signatures and also in view of the fact that assessee lives in a village near Amritsar. We further find the assessee had got substantial relief from the Ld. CIT(A) and which was upheld by Hon’ble Tribunal also.

7. *In view of the above, the appeal filed by assessee is allowed.”*

We have perused the order passed by the Co-ordinate Bench at Amritsar in the case of Sukhdev Singh vs. ITO (Supra), as the facts of the instant case are similar to the facts of the said case decided by the Co-ordinate Bench as mentioned above, therefore, the case is squarely covered by the judgment of the Co-ordinate Bench, hence, in view of the above dictum of the Co-ordinate Bench, we are inclined to set aside the order passed by the Id. CIT(A) and consequently the penalty stands dismissed.

6. In the result, the appeal filed by the assessee is allowed.

Order pronounced in the open Court on 16.08.2018.

Sd/-
(SANJAY ARORA)
ACCOUNTANT MEMBER

Sd/-
(N.K.CHOUDHRY)
JUDICIAL MEMBER

Dated: 16.08.2018

/PK/ Ps.

Copy of the order forwarded to:

- (1) Sh. Gurvinder Singh Gill, VPO Chananke,
Tehsil Baba Bakala, Amritsar
- (2) The ITO, Ward-1, Tarn Taran
- (3) The CIT(A)-1, Amritsar
- (4) The CIT concerned
- (5) The SR DR, I.T.A.T., Amritsar

True copy

By order